

September 6, 2007

VIA E-MAIL

Dr. William Moellmer and Ms. Ying-Ying Macauley
Utah Department of Environmental Quality
168 North 1950 West
PO Box 144810
Salt Lake City, UT 84114-4810

Re: Water Quality Workgroup Meeting Protocol

Dear Dr. Moellmer and Ms. Macauley:

The Utah Mining Association, the Utah Manufacturers' Association, the Utah Food Industries Association and Utah Farm Bureau (collectively the "Associations") appreciate the opportunity to participate in the Water Quality Standards Workgroup (the "Workgroup"). Utah's development of state water quality standards and its implementation of those standards in the programs administered by the Division of Water Quality ("DWQ") are fundamental to ensuring protection of the waters of the State. At its initial meeting, DWQ staff indicated that the Workgroup is charged with (1) identifying "focus" issues for discussion as a group; (2) providing "peer" review; (3) acting as a "sounding board" for DWQ; and (4) making recommendations to DWQ for rule changes. The Associations recognize and support DWQ's efforts aimed at ensuring transparency in the rulemaking process. The Associations concur generally with DWQ's outline of the Workgroup's tasks but have, in the first two meetings, identified procedural concerns. In particular, there is no defined process for selecting the discussion issues or those matters that may ultimately merit the Workgroup's recommendations for further rule development. The Associations feel it is imperative that these issues be clearly addressed and a protocol identified before the Workgroup proceeds with further substantive discussions. The following outlines some of the related issues that, we believe, require further specific direction from DWQ.

Prior to the initial Workgroup meeting, DWQ assembled a broad list of "focus issues" based on comments received on the withdrawn 2006 triennial review rulemaking. This expansive list was then presented to the Workgroup members who were told to identify their "top priorities." Various members had strong views regarding issues they want to discuss; in response, DWQ's agenda for the second meeting identified certain issues even though there was no specific selection process (outside of a general meeting discussion). We recognize that DWQ staff have indicated (in response to Association

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questioning) that they will review the procedures employed by the Great Salt Lake Steering Committee. The Associations are interested in hearing about the application of those "ground rules" to the extent they are relevant to Workgroup meetings and encourage DWQ staff to have fully considered what procedures to implement prior to further proceedings.

On a related note and potentially more troubling, DWQ staff have requested, on different occasions, that Workgroup members consider developing "strawman" rulemaking language. The Associations have at least two related concerns. First, the development of rulemaking language is premature particularly when the issues that may warrant further rulemaking have not yet been defined nor has any Workgroup consensus been identified or achieved. Second, if and when any issues are forwarded by the Workgroup to DWQ, Workgroup members ought not to be crafting the specific rulemaking language; we believe that is better left to the experienced DWQ staff.

In summary, the Associations believe the Workgroup is properly directed to identify issues, engage in dialog and make recommendations to DWQ. In turn, the Associations want to underscore the view that DWQ staff is responsible for: 1) review of those recommendations; 2) assessment of whether any of the recommendations warrant rulemaking (based on a comprehensive assessment of the science supporting any potential change and the associated implications (including economic) for the regulated community); and 3) developing any rulemaking language for potential consideration by the Board. An independent DWQ staff is an essential component of the process and will ensure proper evaluation of any potential rulemaking by the Board and, ultimately, the public.

Thank you for your consideration of these comments; please do not hesitate to call if you want to discuss these issues further. The Associations look forward to future productive Workgroup meetings and to providing input to the evolution of DWQ's programs.

Very truly yours,

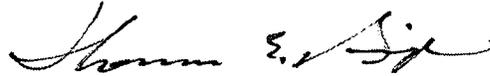
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President

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Jim Olsen
President

UTAH FARM BUREAU



Todd Bingham
Vice President, Public Policy

cc: Walt Baker
Harry Judd

/cba